

REMARKS

Applicants and their representatives wish to extend their appreciation to Examiner Robinson for the very helpful discussions regarding this application and its related applications. During these discussions, Applicants' representatives informed the Examiner that the claims in some of the related applications had been amended to recite that "Therapeutic protein X" is selected from one of the proteins set forth in Table 1 of their respective specifications. However, Applicants later recognized that Table 1 in each application have some overlapping proteins. The Examiner then indicated that a restriction would be required in each application among the "Therapeutic protein X" set forth in Table 1. Applicants expressed their intention of amending the instant claims from recitation of "Therapeutic protein X" to "an interferon beta protein," which is one of the proteins listed in Table 1 of the specification (see page 13). Accordingly, in this response, Applicants elect an "an interferon beta protein." The Examiner is requested to make the restriction requirement of record. Applicants assert that the proteins set forth in Table 1 are independent and separately patentable, and that Applicants reserve the right to file divisional applications on the non-elected inventions.

Additionally, the Examiner had very kindly provided claims that she deemed allowable in related Application No. 09/833,118. The Examiner suggested that those claims be used as a template for the claims in the instant application in order to expedite prosecution. Accordingly, Applicants have amended claims 1-12 to mirror the claims provided by the Examiner in related Application No. 09/833,118.

In related Application No. 09/833,118, the Examiner had also rejoined claims that correspond to claims 26-29 of the instant application. In order to expedite rejoinder,

Applicants have amended claim 26 in the instant application to correspond to claim 26 in Application No. 09/833,118. Claims 27-29 in Application No. 09/833,118 were rejoined in their original form and similarly, claims 27-29 in the instant application have not been amended. Applicants respectfully request that claims 26-29 be rejoined in the instant application.

Applicants address each of the issues raised in the Office Action of November 4, 2003, below.

Provisional Statutory Double Patenting

Claims 1-21 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-21 of copending Application Nos. 09/833,118; 09/833,111; 09/832,929; 09/832,501; and 09/832,041.

Applicants have informed the Examiner that they will elect a single protein for “Therapeutic protein X” in each of the copending applications. Specifically, the following proteins have been elected in these copending applications:

<u>Application No.</u>	<u>Therapeutic protein X</u>
09/833,118	Brain-derived neurotrophic factor (BDNF)
09/833,111	Cerebus protein
09/832,929	An antibody or antibody fragment that specifically binds HER2
09/832,501	Interferon-alpha (IFN-a)
09/832,041	TIMP-1

The currently amended claims in the instant application are directed to an albumin fusion protein comprising an interferon beta protein, which is not being claimed

in any of these above copending applications. Therefore, withdrawal of the rejections is respectfully requested.

Claim Rejections - 35 USC § 102

Claims 1-3, 5-10, 13, 14 and 17-21 are also rejected under 35 U.S.C. 102 (b) as being anticipated by WO 97/24445 ("Delta"), or its Korean equivalent, KR99076789.

The Office alleges that Delta discloses serum albumin fusion proteins comprising the sequence set forth in SEQ ID NO: 18 of the instant application and therefore anticipates the claimed invention. In particular, the Office alleges that Delta discloses a fusion of albumin and a growth hormone. The Office has interpreted "Therapeutic protein X" as encompassing any "polypeptide, antibody, peptide, fragments or variants thereof." See Office Action, page 6. However, the claims now recite "an interferon beta protein." Delta does not teach or suggest an albumin fusion protein comprising an interferon beta protein. Thus, Delta does not anticipate the instant claims. Withdrawal of the rejection is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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